

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)
)
 DANIEL ALEXANDER, M.D.)
 Certificate No. C-24686)
)
 Respondent.)
_____)

No. 18-95-46587

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective on June 30, 1997.

IT IS SO ORDERED May 29, 1997.

By: 

IRA LUBELL, M.D.
Chairperson, Panel A
Division of Medical Quality

1 August 31, 1995, and respondent filed his Notice of Defense
2 contesting the Accusation on or about September 19, 1995. A copy
3 of the Accusation in case no. 18-95-46587 is attached as Exhibit
4 "A" and hereby incorporated by reference as if fully set forth.

5 3. The Complainant, Ron Joseph, is the Executive
6 Director of the Board and brought this action solely in his
7 official capacity. The Complainant is represented by the
8 Attorney General of California, Daniel E. Lungren, by and through
9 Deputy Attorney General Joseph P. Furman.

10 4. Respondent is represented by Rita J. Baird, Esq.,
11 whose address is Harris and Baird, 880 West First Street, Suite
12 309, Los Angeles, California 90012-2448.

13 5. Respondent and his attorney have fully discussed
14 the charges contained in the Accusation in case no. 18-95-46587,
15 and respondent has been fully advised regarding his legal rights
16 and the effects of this stipulation.

17 6. At all times relevant herein, respondent has been
18 licensed by the Medical Board of California under Physician and
19 Surgeon's Certificate No. C 24686.

20 7. Respondent understands the nature of the charges
21 alleged in the Accusation and that, if proven at hearing, the
22 charges and allegations would constitute cause for imposing
23 discipline upon his Physician and Surgeon's Certificate.
24 Respondent is fully aware of his right to a hearing on the
25 charges contained in the Accusation, his right to confront and
26 cross-examine witnesses against him, his right to the use of
27 subpoenas to compel the attendance of witnesses and the

1 production of documents in both defense and mitigation of the
2 charges, his right to reconsideration, appeal, and any and all
3 other rights accorded by the California Administrative Procedure
4 Act and other applicable laws. Respondent knowingly,
5 voluntarily, and irrevocably waives and gives up each of these
6 rights.

7 8. Respondent admits the truth of each and every
8 allegation of the Accusation in case no. 18-95-46587, with the
9 sole exception of subparagraph "A" of paragraph 4 of the
10 Accusation, and agrees that he has thereby subjected his
11 Physician and Surgeon's Certificate to disciplinary action.
12 Respondent agrees to be bound by the Division's Disciplinary
13 Order as set forth below.

14 9. Based on the foregoing admissions and stipulated
15 matters, the parties agree that the Division shall, without
16 further notice or formal proceeding, issue and enter the
17 following order:

18
19 **DISCIPLINARY ORDER**
20

21 IT IS HEREBY ORDERED that Physician and Surgeon's
22 Certificate number C 24686 issued to Daniel Alexander, M.D. is
23 revoked. However, the revocation is stayed and respondent is
24 placed on probation for five (5) years on the following terms and
25 conditions.

26 1. **COMMUNITY SERVICES - FREE SERVICES**

27 Within 60 days from the effective date of this

1 decision, respondent shall submit to the Division or its designee
2 for its prior approval a community service program in which
3 respondent shall provide free medical services on a regular basis
4 to a community or charitable facility or agency for at least four
5 (4) hours a month for the first twenty four (24) months of
6 probation.

7 2. **ETHICS COURSE**

8 Within 60 days of the effective date of this decision,
9 respondent shall enroll in a course in Ethics approved in advance
10 by the Division or its designee, and shall successfully complete
11 the course during the first year of probation.

12 3. **MEDICAL EVALUATION**

13 Within 30 days of the effective date of this decision,
14 and on a periodic basis thereafter as may be required by the
15 Division or its designee, respondent shall undergo a medical
16 evaluation by a physician of respondent's choice, who is in good
17 standing with the Board and who shall thereafter furnish a
18 medical report to the Division or its designee.

19 If respondent is required by the Division or its
20 designee to undergo medical treatment, respondent shall within 30
21 days of the requirement notice submit to the Division or its
22 designee for its prior approval the name and qualifications of a
23 physician of respondent's choice. Upon approval of the treating
24 physician, respondent shall undergo and continue medical
25 treatment until further notice from the Division or its designee.
26 Respondent shall have the treating physician submit quarterly
27 reports to the Division or its designee indicating whether

1 respondent is capable of practicing medicine safely. Respondent
2 shall pay the cost of the medical evaluation.

3 4. **OBEY ALL LAWS**

4 Respondent shall obey all federal, state and local
5 laws, all rules governing the practice of medicine in California,
6 and remain in full compliance with any court ordered criminal
7 probation, payments and other orders.

8 5. **QUARTERLY REPORTS**

9 Respondent shall submit quarterly declarations under
10 penalty of perjury on forms provided by the Division, stating
11 whether there has been compliance with all the conditions of
12 probation.

13 6. **PROBATION SURVEILLANCE PROGRAM COMPLIANCE**

14 Respondent shall comply with the Division's probation
15 surveillance program. Respondent shall, at all times, keep the
16 Division informed of his addresses of business and residence
17 which shall both serve as addresses of record. Changes of such
18 addresses shall be immediately communicated in writing to the
19 Division. Under no circumstances shall a post office box serve
20 as an address of record.

21 Respondent shall also immediately inform the Division,
22 in writing, of any travel to any areas outside the jurisdiction
23 of California which lasts, or is contemplated to last, more than
24 thirty (30) days.

25 7. **INTERVIEW WITH THE DIVISION, ITS DESIGNEE OR ITS
26 DESIGNATED PHYSICIAN(S)**

27 Respondent shall appear in person for interviews with

1 the Division, its designee or its designated physician(s) upon
2 request at various intervals and with reasonable notice.

3 8. **TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR**
4 **IN-STATE NON-PRACTICE**

5 In the event respondent should leave California to
6 reside or to practice outside the State or for any reason should
7 respondent stop practicing medicine in California, respondent
8 shall notify the Division or its designee in writing within ten
9 days of the dates of departure and return or the dates of non-
10 practice within California. Non-practice is defined as any
11 period of time exceeding thirty days in which respondent is not
12 engaging in any activities defined in Sections 2051 and 2052 of
13 the Business and Professions Code. All time spent in an
14 intensive training program approved by the Division or its
15 designee shall be considered as time spent in the practice of
16 medicine. Periods of temporary or permanent residence or
17 practice outside California or of non-practice within California,
18 as defined in this condition, will not apply to the reduction of
19 the probationary period.

20 9. **COMPLETION OF PROBATION**

21 Upon successful completion of probation, respondent's
22 certificate shall be fully restored.

23 10. **VIOLATION OF PROBATION**

24 If respondent violates probation in any respect, the
25 Division, after giving respondent notice and the opportunity to
26 be heard, may revoke probation and carry out the disciplinary
27 order that was stayed. If an Accusation or Petition to Revoke

1 Probation is filed against respondent during probation, the
2 Division shall have continuing jurisdiction until the matter is
3 final, and the period of probation shall be extended until the
4 matter is final.

5 11. **COST RECOVERY**

6 Respondent is hereby ordered to reimburse the Division
7 the amount of \$3,000.00 (three thousand dollars) within 90 days
8 from the effective date of this decision for its investigative
9 and prosecution costs. Failure to reimburse the Division's cost
10 of its investigation and prosecution shall constitute a violation
11 of the probation order, unless the Division agrees in writing to
12 payment by an installment plan because of financial hardship.
13 The filing of bankruptcy by the respondent shall not relieve
14 respondent of his responsibility to reimburse the Division for
15 its investigative and prosecution costs.

16 12. **PROBATION COSTS**

17 Respondent shall pay the costs associated with
18 probation monitoring each and every year of probation, which are
19 currently set at \$2,304.00 (two thousand, three hundred and four
20 dollars) per year, but may be adjusted on an annual basis. Such
21 costs shall be payable to the Division of Medical Quality and
22 delivered to the designated probation surveillance monitor at the
23 beginning of each calendar year. Failure to pay costs within 30
24 days of the due date shall constitute a violation of probation.

25 13. **LICENSE SURRENDER**

26 Following the effective date of this decision, if
27 respondent ceases practicing due to retirement, health reasons or

1 is otherwise unable to satisfy the terms and conditions of
2 probation, respondent may voluntarily tender his certificate to
3 the Board. The Division reserves the right to evaluate
4 respondent's request and to exercise its discretion whether to
5 grant the request, or to take any other action deemed appropriate
6 and reasonable under the circumstances. Upon formal acceptance
7 of the tendered license, respondent will no longer be subject to
8 terms and conditions of probation.

9
10 CONTINGENCY

11 This stipulation shall be subject to the approval of
12 the Division. Respondent understands and agrees that Board staff
13 and counsel for complainant may communicate directly with the
14 Division regarding this stipulation and settlement, without
15 notice to or participation by respondent or his counsel. If the
16 Division fails to adopt this stipulation as its Order, the
17 stipulation shall be of no force or effect, it shall be
18 inadmissible in any legal action between the parties, and the
19 Division shall not be disqualified from further action in this
20 matter by virtue of its consideration of this stipulation.

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DATED: 10/29/96

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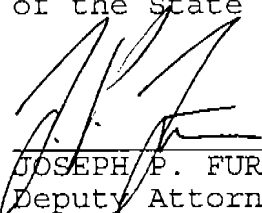
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for the consideration of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs.

DATED: 1/30/97.

DANIEL E. LUNGREN, Attorney General
of the State of California


JOSEPH P. FURMAN
Deputy Attorney General

Attorneys for Complainant

EXHIBIT A

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 JOSEPH P. FURMAN,
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 5212
4 Los Angeles, California 90013-1204
Telephone: (213) 897-2531

5 Attorneys for Complainant
6

7 BEFORE THE
DIVISION OF MEDICAL QUALITY
8 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA
10

11 In the Matter of the Accusation) NO. 18-95-46587
Against:)
12 DANIEL ALEXANDER, M.D.) A C C U S A T I O N
13 4342 Redwood Avenue, #C204)
Marina Del Rey, California 90292)
14 Physician and Surgeon's Certificate)
15 No. C 24686,)
16 Respondent.)
17

18 The Complainant alleges:

19 PARTIES

20 1. Complainant, Doug Laue, Acting Executive
21 Director of the Medical Board of California, Department of
22 Consumer Affairs (hereinafter "Board") and brings this accusation
23 solely in his official capacity.

24 2. On or about November 23, 1962, Physician and
25 Surgeon's Certificate No. C 24686 was issued by the Board to
26 Daniel Alexander, M.D. (hereinafter "respondent"), and at all
27 times relevant to the charges brought herein, this license has

1 been in full force and effect. Unless renewed, it will expire on
2 February 28, 1997.

3 JURISDICTION

4 3. This accusation is brought before the Division of
5 Medical Quality of the Board (hereinafter "Division") under the
6 authority of the following sections of the California Business
7 and Professions Code (hereinafter "Code"):

8 A. Section 2220 provides, in relevant part, that
9 the Division may take action against all persons guilty of
10 violating the Medical Practice Act.

11 B. Section 2227 provides that the Board may
12 revoke, suspend for a period not to exceed one year, or
13 place on probation, the license of any licensee who has been
14 found guilty under the Medical Practice Act.

15 C. Section 2234 provides that unprofessional
16 conduct includes, but is not limited to, the following:

17 ". . .

18 "(c) Repeated negligent acts.

19 ". . .

20 "(e) The commission of any act involving
21 dishonesty or corruption which is substantially related
22 to the qualifications, functions, or duties of a
23 physician and surgeon.

24 ". . . ."

25 D. Section 2236 provides, in pertinent part:

26 "(a) The conviction of any offense substantially
27 related to the qualifications, functions, or duties of

1 a physician and surgeon constitutes unprofessional
2 conduct within the meaning of this chapter. The record
3 of conviction shall be conclusive evidence only of the
4 fact that the conviction occurred.

5 ". . .

6 "(d) A plea or verdict of guilty or a conviction
7 after a plea of nolo contendere is deemed to be a
8 conviction within the meaning of this section and
9 Section 2236.1. The record of conviction shall be
10 conclusive evidence of the fact that the conviction
11 occurred."

12 D. Section 125.3, subdivision (a), provides, in
13 pertinent part, that "the board may request the
14 administrative law judge to direct a licentiate found to
15 have committed a violation or violations of the licensing
16 act to pay a sum not to exceed the reasonable costs of the
17 investigation and enforcement of the case."

18 19 FIRST CAUSE OF ACTION

20 (CRIMINAL CONVICTION)

21 4. Respondent is subject to disciplinary action under
22 section 2236 of the Code in that respondent has sustained a
23 criminal conviction for receiving unlawful remuneration, a
24 misdemeanor, in violation of Business and Professions Code
25 section 650, which is an offense substantially related to the
26 qualifications, functions, or duties of a physician and surgeon.
27 The circumstances are as follows:

1 A. Between in or about June 1989 and on or about
2 July 20, 1990, respondent solicited and received money or
3 other valuable consideration as compensation and inducement
4 for the referral and promised referral of patients, clients,
5 or customers for Transcutaneous Electrical Nerve Stimulators
6 (also known as "TENS" devices).

7 TENS devices are regarded as dangerous devices which
8 require a medical doctor's signed prescription. TENS
9 devices are intended only for patients suffering from
10 chronic intractable pain resulting from a limited list of
11 diagnoses. For patients who are beneficiaries of the
12 Medicare and Medi-Cal programs, the prescribing physician
13 must complete and sign a Certificate of Medical Necessity
14 for the TENS device.

15 Respondent worked in conjunction with Sunmac Medical
16 Systems Company, Inc. (Sunmac) in a scheme to submit false
17 claims to the Medicare and Medi-Cal programs for the
18 fraudulent and unnecessary purchase of TENS units and for
19 the subsequent monthly billing for supplementary supplies
20 related to the devices. In furtherance of this conspiracy
21 and scheme to defraud Medicare and Medi-Cal, respondent
22 signed his signature onto and postdated incomplete
23 prescriptions and incomplete Certificate of Medical
24 Necessity forms authorizing the purchase of TENS devices.
25 Respondent then permitted a Sunmac sales representative to
26 add false diagnoses to the documents to authorize the
27 purchase of the TENS devices.

1 The fraudulently completed documents were then
2 submitted for payment. The TENS rental was billed
3 immediately but the corresponding documentation for the TENS
4 purchase was placed in a tickler file for approximately 30
5 or 60 days, after which time Sunmac would automatically bill
6 for the purchase of a TENS device without contacting
7 respondent to determine whether he had conducted the
8 necessary follow-up examination of the patients. The
9 prescription and Certificate of Medical Necessity for the
10 purchase of a TENS device by a Medicare and/or Medi-Cal
11 recipient (which should have been, but was not, completed by
12 respondent) would be completed by Sunmac employees, who
13 would handwrite, type, white-out and alter existing
14 documentation, or cut and paste previously written
15 documentation on to the new forms. The altered or added
16 information on the authorizing documents would falsely state
17 that the appropriate rental period had been met, and that
18 respondent had conducted a second examination of the patient
19 and determined that the patient had truly benefited from the
20 use of the TENS unit during the rental period. However,
21 respondent did not conduct the required follow-up
22 examination of the patient.

23 Sunmac submitted and was paid for claims based on the
24 fraudulent prescriptions and Certificate of Medical
25 Necessity forms that Sunmac obtained from respondent.
26 Respondent agreed to and did receive payments or other
27 consideration for referring patients to Sunmac for TENS

1 devices. Searches conducted pursuant to a search warrant
2 resulted in the seizure of documentary evidence, including
3 cancelled checks and ledgers listing patients referred by
4 respondent to Sunmac for TENS devices. California
5 Department of Justice investigators interviewed respondent.
6 Respondent admitted to investigators that he received
7 payments for referring patients to Sunmac for TENS devices.

8 B. On November 15, 1993, the Attorney General of
9 the State of California filed a four count first amended
10 felony complaint against respondent in the Municipal Court
11 for the Los Angeles Judicial District, County of Los
12 Angeles, State of California, in proceedings entitled "*The*
13 *People of the State of California vs. Daniel Alexander,*"
14 case number BA076740, charging him in count 1 with
15 conspiracy to defraud Medi-Cal and Medicare, a felony, in
16 violation of Penal Code section 182. In counts 2 and 3,
17 respondent was charged with receiving unlawful Medi-Cal
18 remuneration, a felony, in violation of Welfare and
19 Institutions Code section 14107.2(b). Finally, in count 4,
20 respondent was charged with receiving unlawful remuneration,
21 a felony, in violation of Business and Professions Code
22 section 650. Respondent pleaded not guilty to all counts.

23 C. On November 22, 1993, in accordance with a
24 negotiated plea agreement, the municipal court granted the
25 prosecution's motion to reduce count 4 to a misdemeanor
26 pursuant to Penal Code section 17(b)(4). Respondent then
27 withdrew his not guilty plea to count 4 and instead entered

1 a plea of nolo contendere to the criminal offense of
2 receiving unlawful remuneration, a misdemeanor, in violation
3 of Business and Professions Code section 650. Respondent
4 was then sentenced to three years probation, on terms and
5 conditions including his performance of 40 hours of
6 community service and his payment of \$7,500.00 to the
7 California Department of Justice for investigation costs.

8
9 SECOND CAUSE OF ACTION

10 (UNPROFESSIONAL CONDUCT INVOLVING DISHONESTY OR CORRUPTION)

11 5. Respondent is subject to disciplinary action under
12 section 2234, subdivision (e), of the Code in that respondent
13 received unlawful remuneration as proscribed by Business and
14 Professions Code section 650, which constitutes an act involving
15 dishonesty or corruption substantially related to the
16 qualifications, functions, or duties of a physician and surgeon.
17 The circumstances are as follows:

18 A. The facts and allegations set forth above
19 under paragraph 4, subparagraph A, are incorporated here by
20 reference.

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1 THIRD CAUSE OF ACTION

2 (REPEATED NEGLIGENT ACTS)

3 6. Respondent is subject to disciplinary action under
4 section 2234, subdivision (c), of the Code in that respondent
5 committed repeated negligent acts because he knew or at least
6 should have known or learned that repeatedly placing his
7 signature on incomplete prescriptions and/or Certificate of
8 Medical Necessity Forms which he then provided to Sunmac in
9 exchange for money or other valuable consideration as
10 compensation constituted unlawful conduct proscribed by Business
11 and Professions Code section 650. The circumstances are as
12 follows:

13 A. The facts and allegations set forth above
14 under paragraph 4, subparagraph A, are incorporated here by
15 reference.

16 B. Respondent knew or should have known that
17 repeatedly placing his signature on incomplete prescriptions
18 and/or Certificate of Medical Necessity Forms which he then
19 provided to Sunmac in exchange for money or other valuable
20 consideration as compensation constituted multiple acts of
21 unlawful remuneration in violation of Business and
22 Professions Code section 650.

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PRAYER

WHEREFORE, the complainant requests that a hearing be held on the matters herein alleged and that, following the hearing, the Division issue a decision:

- 1. Revoking or suspending Physician and Surgeon's Certificate Number C 24686, heretofore issued to respondent Daniel Alexander, M.D.;
- 2. Ordering respondent to pay the Division the actual and reasonable costs of the investigation and enforcement of this case; and
- 3. Taking such other and further action as the Division deems proper.

DATED: AUGUST 31, 1995.



Doug Laue
Acting Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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